

# “John Doe’s” Days May Be Numbered in California Lawsuits

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In recent years, it has become increasingly common for plaintiffs to sue anonymously—while at the same time identifying the defendant(s) by name as well as their alleged acts often in lurid and excruciating detail. A lawsuit, of course, is nothing more than a series of allegations and is not in and of itself proof of wrongdoing. But that fact offers cold comfort to those defendants facing unrelenting media coverage of a freshly filed lawsuit particularly if the complaint is chock-full of salacious claims.

A recent decision from the California Court of Appeal, *Roe v. Smith*, clarifies that plaintiffs must meet a high bar when seeking to proceed under “John Doe” pseudonyms. The case involved two former students who sued a classmate for defamation after a school investigation found no basis for sexual-misconduct allegations. Although the trial court allowed the plaintiffs to proceed pseudonymously, the Court of Appeal reversed, holding that the plaintiffs failed to satisfy the relatively stringent requirements for pseudonymity.

In a pointed critique, the Court observed: “It is apparent that [the plaintiff] wants to have his cake and eat it too. [The plaintiff] wants the option to hide behind a shield of anonymity in the event he is unsuccessful in proving his claim, but he would surely identify himself if he were to prove his claims.”

The Court refused to endorse a system in which defendants are always named, but plaintiffs may elect not to reveal their identities and/or to do so only if they happen to prevail at trial.

The Court’s reversal turned largely on its rejection of the plaintiffs’ argument that anonymity was necessary to avoid negative impressions by future employers. The court distinguished between a speculative concern that an employer might discover a potential hire’s litigious background through an “Internet search” and the concrete, particularized fear of violence that historically justified pseudonymity.

Following this decision, plaintiffs suing employers, supervisors, and coworkers face a steep burden when seeking to proceed anonymously in California state courts. Generalized concerns about reputational harm, embarrassment, or disapproval by a prospective employer are unlikely to suffice. Without evidence-supported, specific risks—far beyond broad assertions of possible harm—courts appear increasingly disinclined to allow John Doe and Susan Roe to have “their cake and eat it too.”

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